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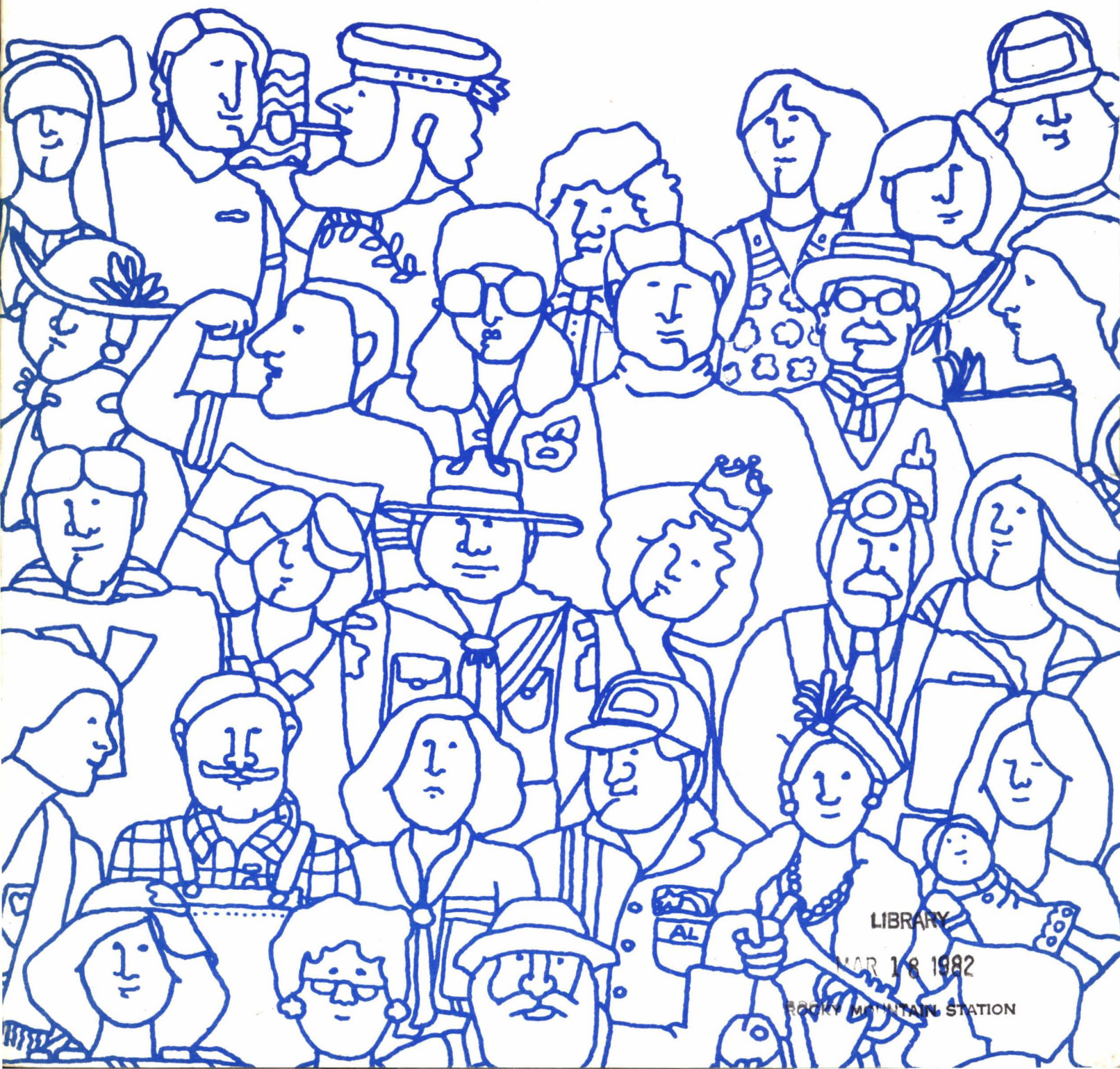
Forest Service

Alaska Region
Report
Number 131

Alaska Lands Act

History
Forest Service Programs
Questions and Answers



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BACKGROUND

The State of Alaska encompasses an area of 586,412 square miles, equivalent to about one-fifth of the size of all the 48 conterminous United States. From the time Alaska was purchased from Russia in 1867, virtually all of this land has been in federal ownership. The Alaska National Interest Lands Conservation Act (ANILCA) is the most recent of a long line of legislative and administrative actions establishing federal policy for managing and allocating the large amount of this land in Alaska which is federally owned.

Alaska was occupied by Russia until Secretary of State William H. Seward negotiated the purchase of the territory with a treaty between the United States and Russia signed on March 30, 1867. The land laws of the United States didn't extend to Alaska, however, until the Organic Act of 1884 established Alaska as a land district and extended the mining laws to include its lands. The Homestead laws were extended to Alaska in 1898, and two years later, the Appropriations Act for fiscal year 1900 extended the public land survey system to include the territory.

In 1892, Congress created the Afognak Fisheries Reserve, an island near Kodiak, and, over the next two decades, established large federal reserves for other purposes. Proclamations between 1902 and 1909 established the Tongass National Forest. The Chugach National Forest was formed in 1907 and, in 1908, enlarged to encompass the Afognak Reserve. The first wildlife reserves and bird refuges in Alaska were created in 1909.

The Alaska Statehood Act in 1958 made Alaska the 49th State and authorized it to select 103.5 million acres of federal land for State ownership.

Of this acreage 400,000 could be selected from the National Forests in the development of and expansion of communities. In eight years, the State selected about 25 million acres. Claims to the land by Alaska Natives, however, prompted the Secretary of Interior, in 1969, to freeze all land grants pending settlement of Native Claims.

In December 1971, Congress passed the Alaska Native Claims Settlement Act (Public Law 92-203) which provided for settling native claims by (1) creating an Alaska Native Fund, and (2) forming Regional and Village corporations which could select lands from areas withdrawn by the Secretary of the Interior. Section 17(d) (2) of the Act directed the Secretary of the Interior to withdraw up to 80 million acres of federal land in Alaska from all forms of appropriation and to report to the Congress, within two years, his recommendations for administering them as units of the National Park, National Forest, National Wildlife Refuge, and National Wild and Scenic Rivers Systems. Those lands withdrawn under that authority are commonly referred to as "d-2" or "national interest" lands.

Recommendations and various legislative proposals for these "d-2" or "national interest" lands were studied by Congress until the Fall of 1978. With the December 18, 1978, deadline for Congressional action on the d-2 lands approaching, and no likely legislation imminent, public and official concern prompted two administrative actions designed to protect the lands under consideration by the Congress.

First in November 1978, Secretary of the Interior Cecil Andrus used the "emergency" withdrawal authority under the Federal Lands Policy Management Act (Public Law 94-579) to temporarily withdraw about 110 million acres of federal land in Alaska from appropriation under the public land laws. At the request of Bob Bergland, Secretary of Agriculture, Andrus withdrew an additional 11.2 million acres of National Forest land for a two-year period of time.

Then, on December 1, 1978, the President used his authority under the Antiquities Act of 1906 to designate 17 National

Monuments in Alaska, encompassing about 56 million acres.

Two of these National Monuments were created out of the Tongass National Forest in the southeastern part of Alaska: the 921,000 acre Admiralty Island National Monument and the 2,285,000 million acre Misty Fjords National Monument. Administration of these two Monuments remained with the Forest Service.

Numerous legislative proposals for federal lands in Alaska were studied by Congress and extensively debated and amended in both the House and the Senate. But the differences were resolved in November 1980.

President Jimmy Carter signed the Alaska National Interest Lands Conservation Act into law on December 2, 1980.

THE ACT AND FOREST SERVICE PROGRAMS

National Forest lands and Forest Service programs in Alaska, administered by the Forest Service, U.S. Department of Agriculture, are affected in a variety of ways by the Alaska Lands Act (known formally as the Alaska National Interest Lands Conservation Act).

The Act affects programs of the National Forest System, as well as cooperative forestry efforts of the Forest Service State and Private Forestry organization and activities of the Forest Service Research organization.

Following is a summary of provisions in the Alaska Lands Act regarding lands and programs in Alaska administered by the Forest Service.

STATE AND PRIVATE FORESTRY

State and Private Forestry programs of the Forest Service are directly affected by a number of special provisions in the Act and through emphasis on increasing the yield of wood products through cooperative efforts with the State Forester and private forest land owners.

Cooperative forestry and related resource programs are underway and have involved a number of Alaska Native villages and corporations in all forested regions of Alaska. Activity in these programs is expected to increase as a result of the Act.

Chugach Region Study

The Alaska Lands Act specifically directs the completion of a Chugach Region Study within one year--that is, by December 1981. The Secretaries of Interior and Agriculture, along with the Alaska Land Use Council; the Chugach Natives, Inc.; and the State of Alaska, will study land ownership and use patterns in the Chugach Region.

The study objectives are to identify lands that can be made available for conveyance to Chugach Natives, Inc., in keeping with the intent and purpose of the Alaska Native Claims Settlement Act and to improve the boundaries of conservation units. The one-year study will involve affected communities and will include public hearings.

The results of the study will be transmitted to the President who will in turn report to Congress along with any proposed legislation to implement study recommendations.

The Alaska Lands Act provides other opportunities for coordination of activities. Resource inventories are of vital importance to the successful implementation of this Act. Oil, gas, and other energy resource surveys; mineral exploration; and renewable resource surveys are essential to the development of land management plans which can make the United States more independent of foreign energy, minerals, and other resources. Forest Service inventories of Alaska's forests and related renewable resources will be coordinated with State and other agency surveys.

The Alaska Lands Act also provides for the establishment of an Alaska Lands Bank. Management agreements involving forest lands can be developed under these provisions of the act.

RESEARCH

Forest Service research programs are directly affected through a number of studies directed by the Alaska Lands Act.

The Act mandates more intensive forest practices in Alaska that will yield more timber including increased volume from so-called marginal forest stands. The technology for maintaining or increasing timber production, while protecting the environment, wildlife, and other resources will be strengthened.

Research will be concentrated in two general areas: 1) intensive timber management and utilization, and 2) environmental protection. Studies will explore methods to improve growth and yield by thinning and other cultural management practices, improve timber harvest equipment and technology for use in southeast Alaska terrain, and intensify timber utilization. Studies will also be done to determine costs and benefits of different timber management practices. In connection with timber harvest, additional studies will determine how to protect and enhance production of anadromous fish, protect wildlife habitat, minimize impacts on soil and water, and maintain scenic values.

Most of the research in fiscal year 1981 will be done through cooperative studies with Universities and other contractors.

COOPERATIVE STUDIES

The Act prescribes a number of cooperative studies and plans. In several of these, specific cooperators have been named. In such studies, the Forest Service will follow established land management planning procedures for public involvement. Cooperators will include other Federal agencies, State agencies, communities, Native corporations and villages, and private groups. Involvement of the general public will be elicited. The Alaska Land Use Council will also be involved in these studies.

A cross-section of resource issues will be studied:

- Mining and fisheries, cooperative fisheries, aquaculture;
- Operational plans for mining and mining access within some wilderness areas;
- Wilderness study, opportunities to increase timber yields, monitoring of timber supply and demand in southeast Alaska;
- Canadian-Alaska access, coordinated land ownership;
- Wild and scenic rivers;
- Oil and gas leasing potential.

ALASKA'S NATIONAL FORESTS

In accord with the various laws governing the administration of National Forests, such forests are managed for multiple use. The various resources are managed in the configuration that best meets the needs of the American people. (Regulations governing resident fish and wildlife species, including hunting, fishing, and trapping regulations on the National Forests, are developed and administered by the State.)

The Alaska Lands Act, together with earlier laws governing the administration of the National Forests, provide for comprehensive planning. This planning is coordinated with State and local community planning efforts. The Tongass National Forest Land Management Plan (TLMP), developed during the 1977-79 period, was utilized in the development of the Alaska Lands Bill. In accordance with the legislative history (Congressional Record, August 19, 1980), TLMP will be modified to reflect the land use designations and

other changes prescribed by the Act. The Forest Service's Alaska Regional Plan and Chugach National Forest Plan, which are now being prepared, will also reflect direction in the Alaska Lands Act. The State, local communities, and the public will be involved in all of these planning efforts.

ADDITIONS AND LAND ADJUSTMENTS TO NATIONAL FOREST AREAS

Four areas totaling 1,900,000 acres are added to the Chugach National Forest by the Act; Nellie Juan, College Fjord, Copper/Rude River, and Controller Bay.

Three areas totaling 1,450,000 acres are added to the Tongass National Forest; Kates Needle, Juneau Icefield, and Brabazon Range.

WILDLIFE AND FISHERIES MANAGEMENT

As on all National Forests throughout the United States, the State has the primary authority for management of resident fish and wildlife species and prescribing hunting, fishing, and trapping regulations.

Commercial and Sport Fishing

Boundaries, seasons, and limits for commercial and sport fishing in National Forest areas were not affected by the Act. Commercial and sport fishing regulations will continue to be administered by the State.

TABLE I

Alaska Region, National Forest System

	Tongass N.F.	Chugach N.F.
Total acreage before act	15,555,388 Acres Net	4,392,646 Acres Net
Total acreage after act	17,005,388 Acres Net*	6,292,646 Acres Net*
Wilderness acreage created	5,361,899 Acres**	None Created
Wilderness Study	None Created	2,015,[illegible]0 Acres
Wild and Scenic River Study	Situk River***	None Created

* This net total includes 57,000 acres that were deleted from the Tongass National Forest and 97,000 acres that were deleted from the Chugach National Forest. The Act also provides for additional transfers of National Forest land to Native Corporations, the State, and the Fish and Wildlife Service of an estimated 296,000 acres on Afognak Island and an estimated 242,000 acres to the Chugach Native Corporation.

** Final acreage may vary from these figures as official boundary maps are completed.

*** The Act provides for a maximum of 640 acres on each side of the river, for each mile of river length.

Fish Habitat Enhancement

Forest Service fisheries enhancement programs, in cooperation with the State, will continue. The Act provides for fishery research, management, enhancement, rehabilitation activities, and hatcheries within National Forest Wildernesses and Wilderness Study Areas designated by the Act.

NATIONAL FOREST TIMBER SUPPLY AND HARVEST

The Act directs the Forest Service to maintain a timber supply of 4.5 billion board feet per decade on the Tongass National Forest. Timber yield on the Chugach National Forest will be determined with the development of the Chugach Forest Plan.

The Act requires a series of reports to Congress on (1) the status of timber harvest levels in the Tongass National Forest since enactment; (2) the impact of Wilderness designation on the timber, fishing, and tourism industries in southeast Alaska; (3) measures instituted by the Forest Service to protect fish and wildlife; and (4) the status of the Small Business Set Aside Program on the Tongass National Forest.

The studies required for these reports will be conducted in cooperation and consultation with the State, affected Native corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, and the Alaska Land Use Council. An annual report will be submitted to the Senate's Committee on Energy and Natural Resources and the House of Representative's Committee on Interior and Insular Affairs.

The Act authorizes that a special loan program be established for purchasers of National Forest wood products to help them acquire equipment and to develop new technology for using wood products. This program is designed to encourage the utilization of marginal supplies of timber. A fund of 5 million dollars will be established for these loans.

STRUCTURES AND FACILITIES UNDER SPECIAL USE PERMIT AND/OR PUBLIC USE

Existing special use permits and leases on all National Forest lands for cabins, homesites, or similar structures will continue with some limitations on conveyance or transfer in Wilderness areas. Existing uses of temporary campsites, shelters, and other temporary facilities and equipment related to hunting and fishing will continue.

Existing public use cabins within Wildernesses designated by the Act will be maintained and, when necessary, replaced. A limited number of new public use cabins and shelters in Wilderness areas may be constructed for public safety.

TABLE II

NEW WILDERNESS

The "Alaska National Interest Lands Conservation Act" established the following National Forest Wilderness areas:

Wilderness	Acres
Admiralty Island National Monument Wilderness	900,000
Coronation Island Wilderness	19,122
Endicott River Wilderness	94,000
Maurelle Islands Wilderness	4,424
Misty Fjords National Monument Wilderness	2,136,000
Petersburg Creek - Duncan Salt Chuck Wilderness	50,000
Russell Fjord Wilderness	307,000
South Baranof Wilderness	314,000
South Prince of Wales Wilderness	97,000
Stikine - LeConte Wilderness	443,000
Tebenkof Bay Wilderness	65,000
Tracy Arm - Fords Terror Wilderness	656,000
Warren Island Wilderness	11,353
West Chichagof - Yakobi Wilderness	265,000
TOTAL ACREAGE	5,361,899*

*The final acreage of Wilderness areas may vary from these figures as official boundary maps are completed and State and Native selection acreages are deleted from these totals.

The Act allows until December 2, 1983, for the completion of the study of the Nellie Juan-College Fjord Wilderness Study Area on the Chugach National Forest. The study will involve the public and may result in recommending all or part of the Study Area for Wilderness designation. Until the study is complete and Congress has acted on the recommendations, the Study Area will be managed to protect its wilderness quality.

The Wilderness areas will be managed as directed by the 1964 Wilderness Act as amended by Alaska Lands Act. The primary objective of a Wilderness area is to maintain the Wilderness character of the land. However, the Alaska Lands Act specifically authorizes the following uses for Alaska Wilderness areas:

1. Fishing, Hunting & Trapping
   Fishing, hunting, and trapping will continue as on other National Forest land. They are subject to State fish and game regulations.

2. Subsistence
   Subsistence uses, including sport hunting and fishing, will be given special attention on all National Forest lands including Wilderness. The State of Alaska prescribes hunting, fishing, and trapping regulations.

3. Public Recreation Cabins
   Existing Public Recreation Cabins will continue to be maintained and may be replaced as needed. A limited number of new public cabins may be added if needed for health and safety reasons.

4. Structures & Facilities Under Special Use Permit and/or Public Use
   Existing special use permits and leases on all National Forest lands for cabins, homesites, or similar structures will continue. Use of temporary campsites, shelters, and other temporary facilities and equipment related to hunting and fishing will continue.

5. Fish Habitat Enhancement
   Fishery research, management, enhancement, and rehabilitation activities are permitted within National Forest Wildernesses and Wilderness Study Areas designated by the Act. This includes permanent improvements such as fishways, weirs, hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks. In Wilderness, structures will be constructed in a rustic manner to minimize impact on the wilderness character of the area. Reasonable access, including temporary uses of motorized equipment, will be permitted. Fish hatchery and related aquaculture projects are jointly renewed and approved by the State of Alaska and the Forest Service.

6. Special Use Permits for Guides and Outfitters
   Existing guides and outfitters may continue to offer services within the Wilderness Areas under special use permits as on other National Forest lands.

7. Private, State, and Native Lands
   Private, State, and Native lands within a Wilderness are not affected by this Act and access to these properties is assured.

8. Use of Airplanes, Motorboats, and Snow Machines
   Existing use of airplanes, motorboats, and snow machines will continue and can only be restricted or prohibited after public hearings.

9. Timber
   Timber may not be sold or harvested from Wilderness lands. Beach log salvage is permitted along saltwater shorelines. Timber may be used for campfires, trail construction, and to fulfill subsistence needs of local residents.

WILD AND SCENIC RIVERS

The Situk River near Yakutat on the Tongass National Forest is designated for study as a potential addition to the National Wild and Scenic River System. The Forest Service will conduct a study of the river by September 30, 1984, to determine whether it should be included in the National System. The Forest Service will solicit advice from the public and other agencies in preparing this study.

During the study period, all public lands within an area extending 2 miles from the banks of both sides of the river are withdrawn under this Act, from mining, entry, sale, State selection, or other disposition under the Public Land Laws, except for valid existing rights.

PROSPECTING & MINING IN NATIONAL FOREST WILDERNESS AREAS AND MONUMENTS

The prospecting for and development of mineral resources are long established uses on National Forests. A number of restrictions on such use apply to designated Wilderness areas. National Monuments are closed to further mineral entry, but valid claims remain.

The Wilderness Act permits exploration for mineral deposits until December 31, 1983. Mining claims determined to be valid as of December 31, 1983, can be developed. Mining claims located in these Wilderness Areas prior to establishment by the Act include both the land surface and the minerals beneath the surface.

Although National Monuments are closed to mineral entry, the Alaska Lands Act provides for mineral development in specific portions of both Misty Fjords and Admiralty Island National Monuments. These provisions accomodate proposed mining development by U.S. Borax and Chemical Corporation at Quartz Hill in the Misty Fjord National Monument and the Pan Sound Venture at Greens Creek in the Admiralty Island National Monument.

Although the lands in the area of both Quartz Hill and Greens Creek are withdrawn from entry, the Act makes provisions for continued prospecting on lands within 3/4 of a mile of valid claims. This will permit some expansion of both operations should additional valuable deposits be located adjacent to the valid claims.

The new legislation prohibits new mining claims in the Copper/Rude River addition to the Chugach National Forest. However, mineral removal on existing claims will be allowed under reasonable regulations.

DEVELOPMENT OF REGULATIONS

The Alaska Lands Act will require the development of various regulations to implement specific provisions of the Act. The State of Alaska, local communities, public and private organizations, and individuals will be involved in the development of these regulations involving Forest Service programs in Alaska.

Further information on the Alaska Lands Act as it affects Forest Service programs and activities may be obtained by contacting any Forest Service office in the State.

Questions & Answers

Q Does the Forest Service plan to issue regulations for implementing the Act's special provisions for cabins, shelters, and aquaculture facilities within designated wilderness areas?

A Management policies for Alaska Wilderness will be developed through the National Forest Management Act forest planning process and the special cooperative fisheries planning provisions of the Alaska Lands Act. A part of this process will be a review of exisiting regulations which already require the issuance of a permit for non-Forest Service developments on National Forest lands such as private aquaculture facilities. It is entirely possible that the existing permit system will be found to be adequate with the only additional requirements being development of specific standards and guidelines developed through a public planning process.

Q How will the Forest Service handle existing special use permits and leases in areas that have been designated as Wilderness by the Act?

A The Law specifies that existing cabin leases and permits in National Forest Wilderness will be allowed to continue unless they constitute a direct threat to or a significant impairment to the purposes for which the wilderness was established. Policies for continued occupancy and use of existing cabins and permits will be developed with full public involvement of all interested parties and will become a part of the management plan for the specific wilderness area.

Q How does the Act affect the State of Alaska's selection of lands for state ownership, as permitted by the Alaska Statehood Act of 1958?

A Upon attainment of Statehood in 1959, the State of Alaska was given 25 years to select up to 400,000 acres of National Forest land for community purposes. The Act grants to the State an additional 10 years to complete these land selections -until January 1994. The Act also conveyed to the State all selections of National Forest land which had been approved by the Secretary of Agriculture by July 1, 1979. This conveyance represents well over half of the State's entitlement of National Forest land selections. The Act also prohibits future State selections in classified Wilderness Areas and the two National Monuments administered by the Forest Service.

Q Who will serve on the Alaska Land Use Council and what is the Council's purpose?

A The purpose of the Council is to promote cooperative planning for management of Alaska's natural resources. The Council will conduct studies and advise the Secretaries of Agriculture, Interior, other Federal Agencies, the State local governments and Native Corporations with respect to ongoing, planned, and proposed land and resource uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural develop, coastal zone management, preservation of cultural and historic resources, and such other matters as may be submitted for advice by the members.

Those serving on the Alaska Land Use Council are the head of the Alaska offices of the National Park Service, U.S. Fish and Wildlife Service, U.S. Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and the Department of Transportation; the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, and Transportation; and two representatives selected by Alaska Native Regional Corporations which represent the twelve Regional Corporations. The Council will be cochaired by a Federal Cochairman appointed by the President of the United States. The Governor of Alaska is the State Cochairman.

Q What will be involved in evaluating the resource potential of the wilderness study areas designated by the Act? Will the public have a role in determining whether these areas become wilderness or are made available for other forms of multiple use?

A The wilderness study area will be evaluated through the Chugach Forest land management plan process. That process will have intensive public involvement to address the question of what is the highest and best use of all lands and resources on the Chugach. Hearings will be conducted to address the specific question of the study area within the context of the overall plan. Disclosure of the environmental consequences of alternatives and proposed actions will be made in an environmental impact statement.

Q What does the emphasis the Act placed upon timber harvest levels and a special fund for timber management mean to multiple use management of the Tongass National Forest?

A The new method of financing timber management activities on the Tongass in no way lessens the commitment to multiple use principles and the protection of key resource values such as eagle habitat. In fact, the new financing method will enhance the ability to protect these other resources. Protection of wildlife, fisheries, and other important resource values is, and will continue to be a major part of the Tongass Timber Management program.

Q What, if any, will be the public's role in the approval of mining plans for the contemplated large scale development of molybdenum deposits in the Quartz Hill area of the Misty Fjords National Monument?

A The Law specifies that mining of valid claims within the Monuments can be allowed, but must be done in a manner that is compatible, to the maximum extent feasible, with the purposes for which the Monuments were established. Prior to any development activities on the Monument, U.S. Borax must obtain Special Use Permits or have an approved operating plan. The NEPA process must be followed before such approvals or permits are issued, and public involvement is an integral part of that process.

Q What are the procedures and time limitations involved in exploring an unperfected mining claim within the Misty Fjords or Admiralty Island National Monuments under the terms of the Act?

A Permits authorizing the exploration of unperfected claims shall be issued by the Secretary if the application has been submitted within 270 days after enactment of the Act and meets the following requirements:

(a) The application shall contain the applicant's name, address and telephone number.

(b) The name of the claim, date of location, date of recordation of the claim, and the serial number assigned to such claim under the Federal Land Policy and Management Act of 1976.

The unperfected claims must be within 3/4 mile of the exterior boundaries of the core claim and held by the applicant as of May 1, 1979 (or were acquired by such applicant after such date by inheritance or devise) and both core and unperfected claims are properly located, recorded and maintained.

When determined that the above requirements have been met, the Secretary shall issue an exploration permit not later than 18 months after date of receipt of application. Each permit issued will terminate five years after date of enactment of the Act.

A "core claim" means a patented mining claim or an unpatented claim which contained a valid mineral discovery as of November 30, 1978.

Q Define "reasonable regulation" as it applies to the Act with regard to the use of motorboats, snowmobiles, and other means of surface transportation traditionally employed on National Monuments and wilderness areas by local residents.

A The term "reasonable regulation" is used in a number of places in the Act. An example would be within wilderness use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation. In this context, reasonable regulations are those which allow established mechanized access for subsistence to continue in a manner which provides adequate protection for the primary resource values that Congress felt worthy of protection.

Development of such use policies will be accomplished through a broad based public planning process involving the State of Alaska, local governments and all interested and knowledgeable publics.

Q What are the eligibility requirements for participating in the Act's loan program which is designed to assist purchasers of National Forest materials in Alaska with the acquisition of equipment and new technology for increasing wood utilization?

A The eligibilty requirements have not yet been determined. Draft regulations to establish the requirements will be distributed for public comment. After considering comments by the State, local governments and the public, final regulations will be written and placed in effect. We expect the draft regulations to be published this year.

Q Do the Act's stipulations regarding guaranteed access to private land within National Forest boundaries apply to all National Forest System lands or only to those in Alaska?

A The Act's provision on guaranteed access to nonfederal (i.e. , State or private) land within National Forest boundaries applies to <u>all</u> National Forest System lands throughout the United States. This right of access is, of course, subject to reasonable rules and regulations. (The Act also makes a similar guaranteed provision to nonfederally-owned land surrounded by public lands administered by the Secretary of Interior).

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